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MONTANA LEGISLATIVE HISTORY

Chapter 539 19 87

Bill H 839 S _____ Original bill & history X C

H. Committee on EDUCATION & CULTURAL RES. S. Committee on EDUCATION & CULTURAL RES.

H. Committee on			S. Committee on		
Hearing Date(s) & EXEC. ACTION	2/23	≠ C	Hearing Date(s)	3/23	X C
		C	EXEC. ACTION	3/25	X C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

HB 839 INTRODUCED BY SANDS
ALLOW SCHOOL TRUSTEES THE OPTION TO CREATE SINGLE-MEMBER TRUSTEE DISTRICTS

2/20	INTRODUCED		
2/20	REFERRED TO EDUCATION & CULTURAL RESOURCES		
2/23	HEARING		
2/23	COMMITTEE REPORT--BILL PASSED	99	0
2/24	2ND READING PASSED	100	0
2/24	3RD READING PASSED		
	TRANSMITTED TO SENATE		
3/02	REFERRED TO EDUCATION & CULTURAL RESOURCES		
3/23	HEARING		
3/25	COMMITTEE REPORT--BILL CONCURRED AS AMENDED	50	0
3/28	2ND READING CONCURRED	46	4
3/30	3RD READING CONCURRED		
	RETURNED TO HOUSE WITH AMENDMENTS		
4/08	2ND READING AMENDMENTS CONCURRED	92	0
4/09	3RD READING AMENDMENTS CONCURRED	97	0
4/13	SIGNED BY SPEAKER		
4/13	SIGNED BY PRESIDENT		
4/14	TRANSMITTED TO GOVERNOR		
4/17	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 539 EFFECTIVE DATE: 10/01/87		

HB 840 INTRODUCED BY DRISCOLL
APPROPRIATING MONEY FOR COMMUNITY HOMES FOR THE MENTALLY ILL

2/20	INTRODUCED		
2/20	REFERRED TO APPROPRIATIONS		
3/06	HEARING		
3/18	TABLED IN COMMITTEE		

HB 841 INTRODUCED BY HARPER, ET AL.
PROVIDING RESIDENTIAL PROPERTY TAX REPLACEMENT WITH INCOME TAX

2/20	INTRODUCED		
2/20	REFERRED TO TAXATION		
2/20	FISCAL NOTE REQUESTED		
3/02	FISCAL NOTE RECEIVED		
3/19	HEARING		
3/19	TABLED IN COMMITTEE		

HB 842 INTRODUCED BY HARP, ET AL.
BALANCE GENERAL FUND BUDGET BY INCOME TAX REVISION AND PRORATED SCHOOL SCHEDULES

2/20	INTRODUCED		
2/20	REFERRED TO TAXATION		
2/20	FISCAL NOTE REQUESTED		
3/02	FISCAL NOTE RECEIVED		
3/09	HEARING		
3/20	COMMITTEE REPORT--BILL PASSED AS AMENDED		
3/23	FISCAL NOTE REQUESTED		
3/23	2ND READING NOT PASSED AS AMENDED	75	23
3/23	FISCAL NOTE RECEIVED		
3/23	RECONSIDERED ACTION ON 2ND READING	68	31
3/24	2ND READING NOT PASSED AS AMENDED	65	35

HB 843 INTRODUCED BY HANNAH
ELIMINATE MINES' NET AND GROSS PROCEEDS FROM FEDERAL 4-R'S ACT FORMULA

2/20	INTRODUCED		
2/20	REFERRED TO TAXATION		
2/20	FISCAL NOTE REQUESTED		
3/02	FISCAL NOTE RECEIVED		
3/11	HEARING		
3/16	TABLED IN COMMITTEE		

HB 844 INTRODUCED BY JENKINS
APPROPRIATION FOR SEED STORAGE FACILITY

2/20	INTRODUCED		
2/20	REFERRED TO APPROPRIATIONS		
3/19	HEARING		
3/20	TABLED IN COMMITTEE		

HB 845 INTRODUCED BY IVERSON, ET AL.
AMENDS ADJUDICATION LAWS, INCLUDING DEPARTMENT OF NATURAL RESOURCES & CONSERVATION'S RELATIONSHIP TO THE WATER COURTS
BY REQUEST OF DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

2/20	INTRODUCED		
2/20	REFERRED TO NATURAL RESOURCES		
2/20	FISCAL NOTE REQUESTED		
3/03	FISCAL NOTE RECEIVED		
	FAILED TO MEET TRANSMITTAL DEADLINE		

HB 846 INTRODUCED BY HOFFMAN, R., ET AL.
COUNTY ASSESSOR TO ASSESS ALL PROPERTY WITHIN COUNTY

2/21	INTRODUCED		
2/21	REFERRED TO TAXATION		
2/21	FISCAL NOTE REQUESTED		
3/02	FISCAL NOTE RECEIVED		
3/07	TABLED IN COMMITTEE		
3/11	HEARING		
3/16	COMMITTEE REPORT--BILL NOT PASSED		
3/17	ADVERSE COMMITTEE REPORT REJECTED	64	34
3/20	2ND READING NOT PASSED AS AMENDED	59	39

HB 847 INTRODUCED BY RAPP-SVRCEK
WORKERS' COMPENSATION DIVISION MAY CANCEL EMPLOYER'S COVERAGE UNDER PLAN NO. 3 FOR UNSAFE WORKPLACE

2/21	INTRODUCED		
2/21	REFERRED TO BUSINESS & LABOR		
2/21	FISCAL NOTE REQUESTED		
2/23	FISCAL NOTE RECEIVED		
2/24	HEARING		
3/09	TABLED IN COMMITTEE		

HB 848 INTRODUCED BY STANG, ET AL.
REFUND PRORATED SHARE OF CERTAIN TAXES PAID IN OTHER STATES

2/21	INTRODUCED		
2/21	REFERRED TO TAXATION		
2/21	FISCAL NOTE REQUESTED		

HOUSE BILL NO. 839

INTRODUCED BY SANDS

IN THE HOUSE

FEBRUARY 20, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES.
FEBRUARY 23, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 24, 1987	PRINTING REPORT.
	SECOND READING, DO PASS.
	ON MOTION, RULES SUSPENDED AND BILL PLACED ON THIRD READING THIS DAY.
	THIRD READING, PASSED. AYES, 100; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 2, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES.
MARCH 25, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 28, 1987	SECOND READING, CONCURRED IN.
MARCH 30, 1987	THIRD READING, CONCURRED IN. AYES, 46; NOES, 4.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 8, 1987	RECEIVED FROM SENATE.
	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 9, 1987	THIRD READING, AMENDMENTS CONCURRED IN.
	SENT TO ENROLLING.

INTRODUCED BY House BILL NO. 839

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THE BOARD OF TRUSTEES OF A SCHOOL DISTRICT A METHOD TO PREVENT DILUTION OF ACCESS TO THE ELECTORAL PROCESS FOR INDIAN MINORITIES BY PROVIDING THE BOARD AN OPTION TO CREATE SINGLE-MEMBER TRUSTEE DISTRICTS; TO PROVIDE THAT THE CREATION OF SUCH DISTRICTS BE ACCOMPLISHED IN ORDER TO CONFORM TO FEDERAL LAW PROHIBITING DILUTION OF ACCESS; AND AMENDING SECTIONS 20-3-305, 20-3-344, AND 20-20-301, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Legislative intent. It is the intent of the legislature to provide a board of trustees of a school district with the option to:

(1) review the voting and population patterns of Indian minorities of the school district, as determined by the most recent federal decennial census, voting records, and other pertinent information; and

(2) create single-member trustee districts within the school district if the board determines that the present trustee selection process does not serve the best interests of the electors of the district or ensure that the access of minority populations to the political process is not diluted

in contravention of federal law.

NEW SECTION. Section 2. Plan for creating single-member trustee districts. (1) The board of trustees of a school district may establish a procedure for studying the appropriateness of creating single-member trustee districts within the school district.

(2) If the board considers a single-member district plan, the plan must establish single-member districts that:

(a) are as compact and equal in population and area as possible; and

(b) provide equitable voting rights for the Indian minorities residing within the school district by ensuring that the access of such minorities to the political process is not diluted in contravention of the Voting Rights Act Amendments of 1982, Public Law 97-205.

(3) If the board determines that it is in the best interest of the electors of the school district, it shall:

(a) propose creation of a single-member trustee district plan;

(b) schedule and hold a public hearing on the proposed plan; and

(c) publish in a newspaper of general circulation in the district a notice of the public hearing, including a map of the proposed single-member trustee district plan, and the reasons why the board believes that the plan satisfies the

INTRODUCED BILL
HB 839

criteria set forth in subsection (2).

(4) After the public hearing is held, the board shall forward a copy of the proposed single-member trustee district plan to the secretary of state and the superintendent of public instruction for review and comment. The copy of the proposed plan must be accompanied by:

(a) a map indicating the circulation of the newspaper in which the notice required in subsection (3) was published;

(b) the published notice of the public hearing;

(c) a map of the proposed single-member trustee district plan; and

(d) a summary of any public comments to the board regarding the proposed plan.

(5) After receiving comments from the secretary of state and the superintendent of public instruction, the board of trustees may amend, revise, approve, or disapprove the proposed plan. If the plan is adopted by the board, it shall:

(a) inform the county superintendent of schools of its adoption;

(b) publish notice of the adoption in a newspaper of general circulation within the district, including identification of the boundaries of each new single-member trustee district and the implementation date of the plan;

and

(c) file with the county clerk and recorder a certificate designating the boundary lines and limits of each single-member trustee district.

(6) All successors to the board of trustees must be elected in accordance with the adopted single-member trustee district plan.

(7) No change in the boundaries of a trustee district may be made within 3 months preceding a regular school election day as provided in 20-3-304.

NEW SECTION. Section 3. Trustees elected by single-member district. (1) At each annual election provided for in 20-3-304, each trustee candidate in a single-member trustee district must be a qualified elector of the trustee district and have resided in the trustee district to be represented for at least 1 year prior to becoming a candidate for the trustee position.

(2) Nomination of trustee candidates under the provisions of 20-3-305 and 20-3-344 must be by electors of the trustee district.

(3) The election of each trustee must be submitted to the electors in the trustee district who are qualified to vote under the provisions of 20-20-301.

Section 4. Section 20-3-305, MCA, is amended to read:

"20-3-305. Candidate qualification and nomination. (1)

Any Except as provided in [section 3], any person who is qualified to vote in a district under the provisions of 20-20-301 shall be eligible for the office of trustee.

(2) Any Except as provided in [section 3], any five electors qualified under the provisions of 20-20-301 of any district, except a first-class elementary district, may nominate as many trustee candidates as there are trustee positions subject to election at the ensuing election. The name of each person nominated for candidacy shall be submitted to the clerk of the district not less than 20 days before the regular school election day at which he is to be a candidate. If there are different terms to be filled, the term for which each candidate is nominated shall also be indicated."

Section 5. Section 20-3-344, MCA, is amended to read:

"20-3-344. Nomination of candidates by petition in first-class elementary district. Any Except as provided in [section 3], any 20 electors, qualified under the provisions of 20-20-301, of any first-class elementary district may nominate by petition as many trustee candidates as there are trustee positions subject to election at the ensuing election. The name of each person nominated for candidacy shall be submitted to the clerk of the district not less than 40 days before the regular school election day at which he is to be a candidate. If there are different terms to be

filled, the term for which each candidate is nominated shall also be indicated. The election shall be conducted with the ballot as specified in 20-3-306."

Section 6. Section 20-20-301, MCA, is amended to read:

"20-20-301. Qualifications of elector. An individual is entitled to vote at school elections if he has the qualifications set forth in 13-1-111 and is a resident of the school district or, in a school district that has been apportioned into single-member trustee districts according to [section 2], a resident of the trustee district."

NEW SECTION. Section 7. Codification instruction. Sections 1 through 3 are intended to be codified as an integral part of Title 20, chapter 3, part 3, and the provisions of Title 20 apply to sections 1 through 3.

-End-

year. REP. ASAY said he favored whatever time would be appropriate to accomplish the purpose.

CHAIRMAN SANDS asked Rep. Asay who would develop the awards program. REP. ASAY said the bottom line is that any local area entity could develop a program. He pointed out again that he has another bill being prepared that will address rewarding excellance in education.

REP. SANDS pointed out that lines 14 and 15 on page 2 provides that an annual meeting be established. He asked if any particular person or organization should be directed to establish this meeting. REP. ASAY said this is merely encouraging local action. He said if there is something done at the state level, that would be wonderful, but any education program will work because of local participation.

There being no further questions, hearing closed on HJR 40.

CONSIDERATION OF HOUSE BILL NO. 839:

REP. JACK SANDS, House District No. 90, sponsor of the bill, stated the bill was introduced at the suggestion of OPI. The intent of the bill is to provide an option to single member trustee districts in school districts, e.g., in cases where Indian minorities have felt that they have not been equally/fairly represented since trustees have been elected district-wide. Federal Court has upheld their right to representation that encompassed having single-member districts.

REP. ASAY explained the plan or mechanism in setting up these districts. The board of trustees would establish a plan with basically two requirements -- one that the trustee districts would be apportioned according to population of the district; and second, it would provide equitable voting rights for Indian minorities residing within the school district. A public hearing would be held on the proposed plan. A notice of the public meeting would have to be published. After the hearing, the board would submit a plan to the Secretary of State and to OPI for their review and comments. Those two agencies would not have the authority to reverse that plan but would have the option of offering recommendations. After comments from OPI and the Secretary of State were reviewed, the board would have the opportunity to finally approve the plan. Once the plan was approved, the county superintendent would be informed and a notice of the adoption of said plan would be published in the local newspaper.

PROPONENTS:

RICK BARTOS, representing OPI, urged the committee to adopt this resolution. He said one of the problems that they face in the

present Title 20 pertaining to school elections is that there is no opportunity for a school board to alter the way in which they elect representatives. If a school district is challenged, it can be put through three years of litigation costing approximately $150 thousand. He said their intent is to provide some preventative law with this measure. At present, the Legislature doesn't provide the school board the option to create single-member districts. The second issue he raised is the intent issue. In discussing the bill with John Ross, who represented Big Horn County and the school district in the Windy Boy case, and Doris Poplar, they asked him to express their sentiment in support of this bill. There is one potential problem that may arise according to Rep. Sands. As the bill is presently written, if a person wants to run for the school board, he would have to come from that voting trustee district as opposed to the entire district. The school district in Hardin is fearful that they may not find a qualified person for the school board in that particular trustee district. A federal ruling with regard to this issue is anticipated within two or three weeks. In closing, Mr. Bartos asked the committee to support the resolution and give those school districts the option to stay out of court.

ERIC FEAVER, president of the Montana Education Association, stated his support for HB 839 in that it does present an option to school districts. He said this is an excellent bill for what is trying to be done; however, they do not see it going beyond simply dealing with the native American minority situations or dealing with the high school property valuation trustee representation.

There being no further questions, hearing closed on HB 839.

EXECUTIVE SESSION:

ACTION ON HOUSE JOINT RESOLUTION NO. 39:

REP. NISBET moved HJR 39 DO PASS. The question was called and the motion CARRIED unanimously.

ACTION ON HOUSE JOINT RESOLUTION NO. 40:

REP. KEENAN moved HJR 40 DO PASS. Rep. Keenan further moved to amend Page 2, line 6, by deleting the word, "SEPTEMBER" and inserting the word, "OCTOBER". She further moved to amend page 2, line 11 by deleting "developed" and inserting "encouraged within local communities." This amendment would take it out of the state's hands and encourage local development. She further moved to amend page 2, line 13 following "that" by deleting the entire section and inserting "local education personnel and private industry official be encouraged to meet and work together to maintain and improve business-education partnership programs."

REP. SWYSGOOD noted that the title would also have to be amended to read "October" instead of "September." Rep. Keenan agreed with that assessment.

REP. GLASER said the only conflict he sees is placing it in the second week of October around Columbus Day. He said it might be considered to move it back to the third or fourth week of September. ERIC FEAVER answered by saying he doesn't know of any school district that takes a vacation on Columbus Day.

The question was called on the motion to adopt Rep. Keenan's amendments, and said motion CARRIED unanimously. Rep. Keenan further moved that HJR 40 DO PASS AS AMENDED. The question was called, and it CARRIED unanimously.

ACTION ON HOUSE BILL NO. 839:

REP. SWYSGOOD moved HB 839 DO PASS. The question was called and the motion CARRIED unanimously.

ADJOURN: A motion having been made by REP. NISBET to adjourn, the meeting adjourned at 9:45 a.m.

JACK SANDS, CHAIRMAN

DAILY ROLL CALL

EDUCATION AND CULTURAL RESOUCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date FEBRUARY 23, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. JACK SANDS, CHAIRMAN	X		
REP. RICHARD NELSON, VICE CHRMN.			X
REP. FRITZ DAILY	X		
REP. RALPH EUDAILY			X
REP. WILLIAM GLASER	X		
REP. DAN HARRINGTON		X	
REP. NANCY KEENAN	X		
REP. ROLAND KENNERLY	X		
REP. EARL LORY			X
REP. JOHN MERCER			X
REP. GERALD NISBET	X		
REP. JOHN PHILLIPS			X
REP. TED SCHYE	X		
REP. BARRY STANG	X		
REP. TONIA STRATFORD			X
REP. CHARLES SWYSGOOD	X		
REP. FRED THOMAS			X
REP. MEL WILLIAMS	X		

STANDING COMMITTEE REPORT

FEBRUARY 23, 19 87

Mr. Speaker: We, the committee on EDUCATION AND CULTURAL RESOURCES

report HOUSE BILL NO. 639

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

Chairman

REP. JACK SANDS,

ALLOW SCHOOL TRUSTEES THE OPTION TO CREATE SINGLE-MEMBER TRUSTEE DISTRICTS

First reading copy (White color)

VISITORS' REGISTER

EDUCATION AND CULTURAL RESOUCES COMMITTEE

BILL NO. HOUSE BILL NO. 839 DATE February 23, 1987

SPONSOR REP. SANDS

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Rick Bates	OPI	X	
Eric Feaver	MEA	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

SENATOR NEUMAN asked who will do the feasibility study in the interim, and how will it be funded.

DR. KRAUSE said he felt they (Board of Regents) could get the study done and would probably be using federal monies that are available for this purpose.

SENATOR REGAN directed Dr. Krause to negotiate an agreement with the Office of Public Instruction's Sex-Equity Officer.

DR. KRAUSE said that is addressed in the appropriations bill using earmarked federal funding.

SENATOR NEUMAN wanted to know if the local advisory boards travel to Helena.

DR. KRAUSE said these are the same local boards that are now in place, and their function will remain the same.

SENATOR McCALLUM'S motion that House Bill 39 BE CONCURRED IN AS AMENDED, CARRIED with Senators Smith and Pinsoneault voting no.

CONSIDERATION OF HOUSE BILL 839: REPRESENTATIVE SANDS, District 90, sponsor of the bill, said the bill is a local option alternative to create single member trustee districts. The bill is a result of the "Windy Boy" lawsuit in Hardin, where some of the members of the Indian community felt they were not adequately represented on the school board. They sued under the provisions of the federal Voting Rights Act, indicating that because they could not vote in single member districts, they were discriminated against. They won the lawsuit and it is the opinion of legal authorities that in another district the minority decision would hold also. This bill attempts to address the issue by allowing the trustees to propose a plan for single member districts which would have two main provisions: 1) it should be as compact and equal in population and area as possible; and 2) provide equitable voting rights for the members of the minority residing within the district. He reviewed the procedural aspects of the bill. He pointed out one significant change states that a trustee candidate must be a member of the district they want to represent, and be nominated by the electors of that district.

PROPONENTS: RICK BARTOS, Office of Public Instruction, said if this bill isn't passed and another district has similar problems, we will be looking at an enormous amount of money to litigate the matter. The bill provides school boards the option to avoid the court and solve the problem themselves without admitting they have violated the Voting Rights Act. Currently, the federal judge is looking at the option of whether the candidate should come from at large or from that particular district. They are expecting that opinion anyday from the judge in Los Angeles. However, the bill, as it is written, requires the person to come from the particular district, which seems the safe option at this point.

RODNEY SVEE, Superintendent of Schools, Hardin, said he supports the bill in two very important areas: 1) the judge has handed down the decision and the candidate must reside in the district and be elected by the electors in that zone; and 2) if they had had an option in Hardin, they might have saved the taxpayers $250,000. They would also have saved the costs of a second lawsuit in which the district is trying to make their insurance pay. The $250,000 was the district's half share; the county's half share was fairly well covered by insurance. He said the problem for school elections is that enumerator districts are set up for countywide elections and are not equitably set up for school districts. He commented that the Attorney General's office fought against defending the district. The opinion was that although it was a state law in question, the matter was a local issue.

BRUCE MOERER, Montana School Boards Association, supported the bill as it gives districts a viable option and will save taxpayers a great deal of money in lawsuits.

ERIC FEAVER, Montana Education Association, supported the bill for the previously stated reasons.

OPPONENTS: There were no opponents.

DISCUSSION BY MEMBERS OF THE COMMITTEE: SENATOR PINSONEAULT asked what was the rationale on which the Attorney General based his decision.

MR. BARTOS replied he was involved in the discussions but he did not know what rationale the Attorney General used.

SENATOR BROWN said he understood this bill is the result of the Windy Boy decision.

MR. BARTOS said that is correct.

SENATOR BROWN asked if that decision mandated single member districts in the Hardin area.

MR. BARTOS said what Windy Boy did was tell the school board to come up with a plan, the judge didn't care what it was, as long as it represents the minorities fairly.

SENATOR BROWN asked if this means minorities would have to bring suit in every school district in order to force the district to implement this sort of plan. Under this bill it is a strictly optional choice.

MR. BARTOS said if this passes, the school boards, on their own, will choose to go with the single member districts if they believe it is in the best interests of their district.

SENATOR BROWN said the bill says in the best interests of the electors of the district. That means everybody.

MR. BARTOS agreed it means everybody. The reason that language is in the bill is that we did not want a school district to be forced to make an admission that they are, in fact, violating the Voting Rights Act.

SENATOR HAMMOND said he thought Harlem did something like this on their own.

MR. MOERER said as a practical matter, on many reservations the Indians are represented on the school board.

SENATOR McCALLUM asked if someone who is just disenchanted with the board could have the district turned into single member zones.

RODNEY SVEE said they could not as there are specific voting minorities identified in the Voting Rights Act.

SENATOR MAZUREK asked what is the logical extension of the one man one vote question? Won't it have to be done statewide eventually?

MR. BARTOS said the MEA says one man one vote is what the Constitution requires, and basing it on the taxable valuation is unconstitutional. The issue here is we have a federal district court making a specific ruling on a specific school district. The attorney that represented the school district said the case wasn't appealed to the 9th Circuit Court because it would be very expensive and if it did go to the 9th Circuit Court, he feared the application would be statewide. The attempt here is to give the individual school district the opportunity to do it if they need to.

SENATOR MAZUREK wondered if this was really what we should do. If it might lead to another expensive lawsuit or become a statewide mandate, shouldn't action be taken now?

MR. BARTOS said with this bill we have a process in place that can be used by the electorate and/or the school board. The school board does have opportunity to fix the problem without going to suit under the provisions of this bill.

SENATOR MAZUREK asked if all the cases are tied to the Voting Rights Act and minority representation.

MR. BARTOS said this is the first of its kind in the northwest.

SENATOR BROWN asked what it gains in the bill to refer to "Indian minorities".

MR. BARTOS said it was to specifically address the Windy Boy case, it being the only minority group in Montana of any significant size to claim non-representation on a school board.

SENATOR REGAN asked about the Chicano population in Billings and Hutterites being classed as minorities.

BR. BARTOS said he believed Hutterites were not classified as minorities in the Voting Rights Act and he was not sure about Chicanos.

SENATOR REGAN suggested changing the bill to read just "minority".

MR. BARTOS said that goes beyond the scope of Windy Boy.

SENATOR REGAN asked the committee researcher to locate the exact language re minorities in the Voting Rights Act with regard to racial and/or ethnic minorities. The definition could be changed to "minorities" as defined by the Voting Rights Act.

SENATOR BLAYLOCK cautioned the committee about expanding the bill to include Hutterites.

SENATOR PINSONEAULT said you get into a case law question and since the case arose from an Indian status question, that should be addressed. He also asked if the board declared two seats open for the minority (Indian) representative, would all the voters in the district vote on them.

MR. SVEE said no. According to the judge's ruling the candidate must be nominated from the zone in which he lives, and be voted in by the residents of that zone. He further pointed out it does not have to be an identifiable minority to get you into court.

SENATOR NEUMAN said he still has a question about making a single member district equal in area. He said you either have one man one vote, or you don't, and he asked the committee researcher to look into it.

SENATOR MAZUREK asked if this is a situation where if someone is successful under the Voting Rights Act, the school district pays the cost.

MR. SVEE said yes, it is. He also pointed out that the language re "compactness" is one of the tests the courts must use.

There being no further discussion, Representative Sands closed.

CONSIDERATION OF HOUSE JOINT RESOLUTION 26: REP. SANDS said REP. WINSLOW, sponsor, asked him to carry the resolution in his absence. The resolution recognizes and supports the Big Sky State Games. He said the Games are held in Billings and people come from all over the United States to participate. He said it is good for both, the state and Billings.

There were no proponents and no opponents. Representative Sands closed.

ROLL CALL

SENATE EDUCATION AND CULTURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date 3/23/87

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BOB BROWN	✓		
SENATOR CHET BLAYLOCK	✓		
SENATOR GEORGE McCALLUM	✓		
SENATOR ED SMITH	✓		
SENATOR PAT REGAN	✓		
SENATOR JOE MAZUREK	✓	-	
SENATOR BILL FARRELL	✓		
SENATOR TED NEUMAN	✓		
SENATOR DICK PINSONEAULT	✓		
SENATOR SWEDE HAMMOND			

Each day attach to minutes.

DATE March 23, 195~

COMMITTEE ON Education

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Tammy Hall	MSSA	356	✓	
Bruce W. Moore	MSBA	619	✓	
		356		
Bruce W. Moore	MSBA	839	✓	
Eric Feaver	MEA	HB356	as amended	
Bill Anderson	CPI	HB839	✓	
"		HB619	✓	
"		HB839	✓	
Rodney Snow	Hardin Public Schools	HB839	✓	

other two are set in the budget.

SENATOR MAZUREK feels this is suspicious. He got the feeling from OPI that "we don't want to do anything, but give us the authority to do it." He felt it should be straightforward and out on the table.

SENATOR SMITH felt a lot of positions are going to be eliminated before the session is over. Granting this flexibility is no problem.

The motion CARRIED on a roll call vote with Senator Neuman absent. (Exhibit 7).

ACTION ON HOUSE BILL 839: BETSY GRIFFING, Committee Attorney, presented proposed amendments to the committee. (Exhibit 8).

SENATOR MAZUREK asked if it is right to give this responsibility to a school board. He felt it was delegating a state responsibility to a local board.

SENATOR MCCALLUM voiced a concern that we are forcing school boards in some areas into electing single member districts like cities do now.

SENATOR MAZUREK replied not all cities do now, but it looks like it is coming.

SENATOR BLAYLOCK said Mr. Bartos of OPI said if we don't have this legislation we will be into another lawsuit. This bill is supposed to cover it all.

SENATOR BROWN asked if we limit the provision for single trustee districts just to Indians, or broaden it to include minorities.

SENATOR REGAN said if we're going to deal with the question of basic civil rights and the Windy Boy lawsuit, we better pass it this way. She expressed concern for a Chicano population of 5,000 in Billings.

SENATOR REGAN moved the adoption of the proposed amendments in Exhibit 8.

RICK BARTOS explained he was inclined to go with the proposed amendments as it keeps things in line with the Voting Rights Act.

The motion CARRIED unanimously.

SENATOR BLAYLOCK moved House Bill 839 BE CONCURRED IN AS AMENDED.

Senator Mazurek asked Mr. Bartos if this is going to cover everything.

MR. BARTOS felt the Boards are responsible and able to respond to either a court challenge or a complaint from the public. He said they are constitutionally recognized and represent the people.

SENATOR MAZUREK pointed out the Boards don't represent the people fairly, which is the whole problem.

MR. BARTOS said the people can come to the Board. The Board doesn't have to admit there is a problem; they just respond with a study and a decision based on that information. This gives them authority for resolution without admission of guilt (admission of guilt being a violation of the Voting Rights Act).

SENATOR BLAYLOCK said this all resulted from a non-responsive school board and the Indians were rightfully upset. He wondered if it should be amended on page 2, line 16, to say "in the best interest of students."

MR. BARTOS said it has to be left open to those who are constitutionally able to vote, which excludes minors.

The motion BE CONCURRED IN AS AMENDED CARRIED with Senators McCallum and Pinsoneault voting no.

There being no further business to come before the committee, the meeting adjourned.

Bob Brown
SENATOR BOB BROWN, Chairman

jdr

ROLL CALL

SENATE EDUCATION AND CULTURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date 3/25/87

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BOB BROWN	✓		
SENATOR CHET BLAYLOCK	✓		
SENATOR GEORGE McCALLUM	✓		
SENATOR ED SMITH	✓		
SENATOR PAT REGAN	✓		
SENATOR JOE MAZUREK	✓		
SENATOR BILL FARRELL	✓		
SENATOR TED NEUMAN	✓		
SENATOR DICK PINSONEAULT	✓		
SENATOR SWEDE HAMMOND	✓		

Each day attach to minutes.

3/25 adopted

SENATE EDUCATION
EXHIBIT NO. 8
DATE 3/25/87
BILL NO. HB 839

Amendments to House Bill 839
Third reading copy (blue)
Senate Education

1. Title, line 6.
Strike: "INDIAN"

2. Page 1, line 18.
Strike: "Indian"

3. Page 2.
Following: line 1.
Insert: "(3) "Minority, " as used in [sections 1 and 2], means a minority whose rights are protected under section 2 of the Voting Rights Act, as amended, 42 U.S.C.1973, as amended."

4. Page 2, line 9.
Following: "compact"
Insert: "in area"
Following: "population"
Strike: "and area"

5. Page 2, line 11.
Strike: "Indian"

6. Page 2, line 13.
Strike: "such"

STANDING COMMITTEE REPORT

MARCH 25, 1997

MR. PRESIDENT

We, your committee on EDUCATION AND CULTURAL RESOURCES

having had under consideration HOUSE BILL No. 839

third reading copy (blue color)

ALLOW SCHOOL TRUSTEES THE OPTION TO CREATE SINGLE-MEMBER TRUSTEE DISTRICTS

SANDS (BLAYLOCK)

Respectfully report as follows: That HOUSE BILL No. 839

Be amended as follows:

1. Title, line 6.
Strike: "INDIAN"

2. Page 1, line 18.
Strike: "Indian"

3. Page 2.
Following: line 1.
Insert: "(3) "Minority", as used in [sections 1 and 2], means a minority whose rights are protected under section 2 of the Voting Rights Act of 1965, (42 U.S.C.1973), as amended."

4. Page 2, line 9.
Following: "compact"
Insert: "in area"
Following: "and"
Insert: "as"
Following: "population"
Strike: "and area"

5. Page 2, line 11.
Strike: "Indian"

6. Page 2, line 13.
Strike: "such"

DE CONCURRED IN

~~DO PASS~~

DO NOT PASS

SENATOR BOB BROWN, Chairman.

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